

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GREGORY ALAN JOHNSON,

No. C 06-3257 SI (pr)

Petitioner,

**ORDER GRANTING CERTIFICATE
OF APPEALABILITY IN PART**

v.

JAMES A. YATES, Warden,

Respondent.

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Petitioner has filed a notice of appeal and request for certificate of appealability. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). Petitioner has "made a substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), and reasonable jurists would find debatable the district court's assessment of the claim in the petition that petitioner's right to due process was violated by the jury instructions on felony murder and robbery. See Slack v. McDaniel, 529 U.S. 473, 484 (2000). Accordingly, a certificate of appealability is GRANTED on this claim. The certificate of appealability is DENIED as to all the other claims in the petition. The clerk shall process the appeal.

IT IS SO ORDERED.

DATED: October 1, 2008



SUSAN ILLSTON
United States District Judge